

# **Exhibit 60 Supplement Mahoney Deposition**

Jessica Mahoney

Pages: 22, 100, 101, 102, 104, 105, 115, 116, 123, 124,  
126, 135, 136, 137, 140, 146, 147, 149, 150, 159, 160,  
161, 162, 169, 175, 177, 178, 188, 196, 197, 198, 199,  
200, 201, 204, 205

Dated: January 29, 2021

Jessica Mahoney

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES JOSEPH FREITAG, :  
JR., as ADMINISTRATOR of :  
the ESTATE OF CHARLES :  
JOSEPH FREITAG, SR., :  
Plaintiff :

No. 2:19-cv-05750-JMG

VS

BUCKS COUNTY; PRIMECARE :  
MEDICAL, INC.; STEPHAN :  
BRAUTIGAM, PMHNP; :  
JESSICA MAHONEY, PSY.D; :  
AVIA JAMES, LPC; :  
CHRISTINA PENGE, LPC; :  
JOHN DOES 1-10, :  
Defendants :

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ZOOM DEPOSITION OF JESSICA MAHONEY

DATE AND TIME: January 29, 2021, 9:06 a.m.

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1 sentencing was causing anxiety.

2 Also, did you -- did you recall that  
3 Mr. Freitag had concerns about losing his job  
4 throughout the time of July and August of 2018?

5 A. Yes, but I believe that he had reported  
6 that he had gotten word that he would be able to  
7 keep his job.

8 Q. Okay. That was assuming that he would  
9 get out of custody, right?

10 A. Correct.

11 Q. All right. Do you have any idea what  
12 his mental state was after his sentencing?

13 A. No.

14 Q. I know you didn't speak to him.  
15 Literally, what I'm asking is did  
16 anybody tell you what his mental state was after  
17 sentencing?

18 A. No.

19 Q. Would you agree that, as a matter of  
20 mental health care, it would have been important to  
21 know what his mental health status was after his  
22 sentencing?

23 A. Yes.

24 MR. NINOSKY: Object to the form. It's  
25 again speculation.

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1 every single encounter?

2 A. Yes.

3 Q. Okay.

4 MR. FEINBERG: All right. That's a  
5 good point for a break.

6 Why don't we take five minutes and come  
7 back and pick up from there.

8 MR. NINOSKY: Great, thank you.

9 (Recess taken from 10:34 a.m. until  
10 10:45 a.m.)

11 BY MR. FEINBERG:

12 Q. Ms. Mahoney, let's get back on the  
13 record.

14 Let me ask, during the break that we  
15 just took, did you realize any of your previous  
16 testimony was incorrect or incomplete?

17 A. No.

18 Q. Okay. I'm gonna talk just about some  
19 general principles about governing the way that you  
20 practice -- that govern the way you practice as a  
21 mental health clinician.

22 Can we just agree that your -- one of  
23 your central roles is to protect the health and  
24 safety of the patient you're working with?

25 MR. NINOSKY: Object to the form. You

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1 can answer.

2 THE WITNESS: I didn't hear you.

3 BY MR. FEINBERG:

4 Q. You could not hear me or you could not  
5 hear John Ninosky?

6 A. I could not hear him, John.

7 MR. NINOSKY: I objected, but you can  
8 answer the question.

9 THE WITNESS: Yes.

10 BY MR. FEINBERG:

11 Q. Okay. And related to that, if you get  
12 the sense that any patient is at risk of harming  
13 themselves, you're gonna do something about that,  
14 right?

15 MR. NINOSKY: Object to the form. You  
16 can answer.

17 THE WITNESS: Yes.

18 BY MR. FEINBERG:

19 Q. All right. And that's -- in fact,  
20 that's the main -- given that you've told me that  
21 in every single encounter you have you're  
22 conducting a suicide risk assessments, a suicide  
23 risk assessment, pardon me, you're looking to  
24 determine whether that risk is practice; is that  
25 correct?

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1           A.       Yes, yes.

2           Q.       All right. I want to talk more  
3 specifically about suicide risks.

4                   I assume, now that you've worked in a  
5 correctional environment for the past five years,  
6 you're familiar with the potential risks of suicide  
7 that could come up in that environment; is that  
8 right?

9           A.       Yes.

10          Q.       All right. Once you started working  
11 for PrimeCare, that was your -- the first time you  
12 worked in a correctional facility; is that correct?

13          A.       Um, I did an undergrad or, like, a  
14 practicum in my doctorate at a juvenile center.

15          Q.       Okay. So first time working in a  
16 postgraduate environment; is that correct?

17          A.       Correct.

18          Q.       Did you have any special training about  
19 the specific risks of suicide that may be present  
20 in a correctional environment?

21          A.       Not when I initially started.

22                   (Discussion held off the record.)

23 BY MR. FEINBERG:

24          Q.       So specifically in the correctional  
25 environment, would you agree that there are always

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1 potential risks for a suicide among the population  
2 you're dealing with?

3 MR. NINOSKY: Object to the form, but  
4 you can answer.

5 THE WITNESS: Yes.

6 BY MR. FEINBERG:

7 Q. And particular criminal justice  
8 involvement is often associated with mental health  
9 disorders, drug abuse and so on. Wouldn't you  
10 agree?

11 A. Yes.

12 Q. And those factors, including mental  
13 health disorders, drug abuse, those are consistent  
14 with a potential enhanced risk for suicide; is that  
15 correct?

16 MR. NINOSKY: Object to the form. As  
17 far as you can, you can answer.

18 THE WITNESS: Yes.

19 BY MR. FEINBERG:

20 Q. So, and issues associated with criminal  
21 justice involvement -- strike that.

22 Would you agree that as a person  
23 progresses through their criminal case while  
24 they're detained in the facility, there may be  
25 moments that could enhance -- or moments in that



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1 case which could enhance the risk?

2 MR. NINOSKY: Object to the form as to  
3 enhanced, but you can answer if you can.

4 THE WITNESS: Sometimes.

5 BY MR. FEINBERG:

6 Q. Okay. We still are getting that  
7 feedback. I want to make things easy for Jamie.

8 Why don't we try, Ms. Mahoney, try  
9 logging out and then logging right back in?

10 A. Okay.

11 (Discussion held off the record.)

12 BY MR. FEINBERG:

13 Q. Ms. Mahoney, before we had you log out  
14 and then log back in, we were talking about risks  
15 of suicide in the correctional environment.

16 Just as an example, would you agree, as  
17 a clinician, that when someone is dealing with  
18 restrictions on liberty, isolation from family,  
19 fear of violence in the prison, that these are all  
20 things that may present risk factors for suicide?

21 A. Yes.

22 Q. All right. Also, consequences of court  
23 dates, for example, a conviction, a denial of bail,  
24 a sentencing, those are all things that can present  
25 risks of suicide; is that correct?

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1 MR. NINOSKY: Object. Object to the  
2 form. You can answer.

3 THE WITNESS: Yes.

4 BY MR. FEINBERG:

5 Q. Is it safe to say, based on your  
6 understanding of those risk factors, that those are  
7 issues that you are -- that you are on the lookout  
8 for whenever you are working with someone under  
9 your care?

10 A. Yes.

11 Q. And if you learn about a specific  
12 factor that may present a risk of suicide for that  
13 specific person, you'll do something about that; is  
14 that correct?

15 MR. NINOSKY: Object to the form. It  
16 presumes something can be done about a static  
17 factor, but you can answer if you can.

18 THE WITNESS: Yes. When we're made  
19 aware of some -- a factor like that, we do meet  
20 with each patient.

21 BY MR. FEINBERG:

22 Q. Okay. And if you learn that that  
23 factor is present, and your counsel noted an  
24 objection to static factor, then you will consider  
25 potential changes to the precautions that are in

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1 Q. I'm going to read that out loud.

2 Patients may become suicidal at any  
3 time during their incarcerations. Suicidal  
4 behavior is more likely at critical periods of  
5 time, including commitment and the first several  
6 days thereafter, court hearings, sentencings, and  
7 then the sentence continues.

8 My question for you is, are there any  
9 special procedures in place that you know of to  
10 address critical -- let me highlight the text --  
11 critical periods of time?

12 For instance, is there a notification  
13 that you get or a special locked system -- lock  
14 system in place to address those critical periods?

15 A. No, not specifically.

16 Q. All right. By the way, can I -- I  
17 assume you agree with the sentence that I just  
18 referenced in the record, that patients can become  
19 suicidal and especially at those critical periods;  
20 is that right?

21 A. Correct. We have -- we are notified  
22 sometimes of those things, so -- and we get our  
23 information through various channels.

24 So sometimes we'll find out about court  
25 hearings, sometimes through the actual patient.

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1 Other times we'll see that they have a court date  
2 when we have access to a list of who goes out for  
3 court each day, when our case managers review that.

4 But most of our information regarding  
5 these things actually comes directly from the  
6 patient.

7 Q. Okay. I think I missed the first part  
8 of what you said.

9 You said sometimes you'll get  
10 notification about a court hearing through -- and  
11 then I lost you. Can you tell me that again?

12 A. Through the patient.

13 Q. Ah.

14 A. Like, there's not -- the jail system is  
15 the one that gets in all of that information, and  
16 there's not a specific way that they pass that to  
17 us.

18 Q. Okay.

19 A. Unless they think it's important.

20 Q. So, for instance, and what I am  
21 envisioning, and I'm not suggesting that PrimeCare  
22 has this, but is there any system where there's a  
23 record of who's going to sentencing on what date,  
24 which matches that up with people who are on a  
25 mental health caseload?

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1           Q.       All right. And is it my understanding  
2   that Level 3 is not used -- this is what it says.  
3   Level 3 is not used for suicide prevention; is that  
4   right?

5           A.       Correct.

6           Q.       How do you make the decision to put  
7   someone on Level 3?

8                   Can you give me an example of a  
9   situation where you would think Level 3 was  
10   appropriate?

11          A.       We generally don't actually put anyone  
12   on Level 3.

13          Q.       Okay. And is that present day or are  
14   you referring back to 2018?

15          A.       Referring back. It's been -- it's a  
16   stepdown. It's supposed to be a stepdown level  
17   from Level 2.

18          Q.       Okay. And is that your -- is it  
19   accurate to say that since you've arrived at Bucks  
20   County, that's been the practice that you're aware  
21   of, Level 3 is never -- strike that. Let me ask it  
22   a different way.

23                   Is it your understanding that Level 3  
24   is always used for a stepdown?

25          A.       Or most always.

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1 Q. Okay. And why is that?

2 A. Because of the level of care involved  
3 in it.

4 If we're seeing somebody and we're  
5 questioning whether they're stable and need some  
6 more support, and we think that they need a Level  
7 3, most of the time we will put them on a 2. We'll  
8 go with a more restrictive until we can figure out  
9 what's going on.

10 Level 3 is kind of reserved for --  
11 reserved for somebody that comes in that's  
12 identified as a significant mental illness.  
13 They're automatically placed on a Level 3.

14 Q. Okay. And so that would be someone  
15 with significant mental illness but not immediate  
16 risk of suicide; is that correct?

17 A. Correct.

18 Q. Okay. Given that Level 3 is not  
19 intended for suicide risk; is that correct?

20 A. Right.

21 MR. NINOSKY: Object to the form.

22 BY MR. FEINBERG:

23 Q. Was there -- which I'm just about to  
24 turn to the records for Mr. Freitag, but -- and  
25 we'll get there shortly.

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1 break it down if she knows for both.

2 MR. FEINBERG: Sure. I realized it  
3 right as I asked the question, John, so it's a fair  
4 objection.

5 So, Jamie, hopefully this will clear it  
6 up for you. Same for Ms. Mahoney.

7 BY MR. FEINBERG:

8 Q. The day of Mr. Freitag's sentencing,  
9 August 24th of 2018, do you know who made the  
10 decision to place Mr. Freitag on Level 3 status?

11 A. I believe it was Cliff, along with the  
12 case manager, Ms. Alyss (phonetic).

13 Q. Okay. And if I'm understanding  
14 correctly, what you're explaining is that as far as  
15 PrimeCare practice goes, if you have any concerns  
16 about a person's risk, it's Level 2 is the default  
17 as opposed to Level 3; is that right?

18 A. Yes.

19 Q. Is it accurate to say then that if you  
20 had learned about Mr. Freitag's sentence in August  
21 of 2018, you would have placed him on Level 2  
22 status?

23 MR. NINOSKY: Object to the form.  
24 You're asking her to speculate, have information  
25 and go back without knowing what was going on at

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1 circumstances of his arrest?

2 A. Yes. Not in depth, but he said why he  
3 was here.

4 Q. What do you remember him saying?

5 A. I don't actually. I only know what I  
6 wrote. I don't remember specifics.

7 Q. Yeah, and by the way, as I noted, we'll  
8 go through the records in just a minute.

9 Right now I just want to try to  
10 understand what you remember about him, whether  
11 anything about him was memorable, whether your  
12 encounters were memorable and so on.

13 And, in fact, that's a good segue to my  
14 next question, which is, is there anything that  
15 stands out in your head about what occurred during  
16 your evaluations, something that he said or the way  
17 he presented, anything like that?

18 A. No.

19 Q. Were you concerned about his risk of  
20 suicide at any point during his incarceration?

21 MR. NINOSKY: Object to the form, but  
22 you can answer.

23 THE WITNESS: Um, on that initial  
24 intake, yes, because he had been placed on a Level  
25 2. He had reported to the nurse, you know, that he



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1 had the suicide attempt that seemed pretty severe,  
2 based on how he reported it.

3 So, yeah, I would say when he initially  
4 got here that I was somewhat concerned.

5 Q. Throughout the course of your time with  
6 him, the encounters that you went through with him,  
7 did that concern increase or decrease?

8 A. I'm not sure how to answer that.

9 Q. Okay. And maybe it's not a fair  
10 question.

11 But, you know, sometimes -- I guess  
12 what I'm trying to get at is, was there a point  
13 during his incarceration where you thought to  
14 yourself, oh, boy, this risk is really increasing,  
15 we've got to be careful, or, by the same token,  
16 where he seemed to be doing better and his symptoms  
17 were abating, anything like that?

18 A. In my meetings with him, no, I don't  
19 think I ever thought that he was more at risk than  
20 when he got here.

21 Q. Do you remember, leading up to his  
22 sentencing, discussions about his concerns related  
23 to that sentencing?

24 MR. NINOSKY: Object to the form. You  
25 can answer.

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1 THE WITNESS: Yes, I do remember us  
2 having a conversation about his level of anxiety  
3 related to court.

4 BY MR. FEINBERG:

5 Q. What do you remember him saying?

6 A. That he was feeling anxious about  
7 court, and he was anxious about numerous things  
8 that would occur after court as far as his job.

9 I was trying to figure out the words I  
10 wanted to use, that's why.

11 His family relationship and kind of  
12 getting those back into somewhat of a resemblance  
13 of life. It seemed to be less related to court,  
14 more related to after court.

15 Q. Do you remember him communicating any  
16 expectation as to what the result of his sentencing  
17 would be in terms of what the judge would do?

18 A. Not specifically with me, but I do  
19 remember conversations with other clinicians about  
20 what was expected and case managers.

21 Q. Okay.

22 A. What was happening.

23 Q. By the way, can I assume from your  
24 answer that -- that in a typical situation you'll  
25 consult with your colleagues about the care you're

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1           Q.       And the case manager at that point was  
2   Ms. Betz?

3           A.       I don't remember.

4           Q.       Okay.

5           A.       I know that -- I know that Jessie was  
6   here, but for a period they were both here.

7           Q.       Okay. Let me just ask a couple of  
8   follow-ups then.

9                    What, if anything, do you remember  
10   hearing about the expectation of Mr. Freitag's  
11   order?

12          A.       It was expected that he would go to  
13   court and be released onto probation. I believe  
14   that probation had even come out to get an address  
15   and kind of a plan for him for after court.

16          Q.       Okay. And what, if anything, did that  
17   expectation lead to from the perspective of mental  
18   health clinicians?

19          A.       It sort of directed where we went with  
20   our treatment. If that was the expectation, we  
21   would have worked with him on that when we met him.

22                    Okay, this is what's expected. Where  
23   are you going? Do you have a place to go and kind  
24   of what's your plan.

25          Q.       Okay. By the same token, would there

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1 operate with this on a computer screen and using a  
2 full digital system, and we've only got hard  
3 copies, so we'll do our best.

4 A. Okay.

5 Q. Understood?

6 A. Understood.

7 Q. All right. I want to show you a  
8 document from the intake evaluation that was  
9 conducted on Mr. Freitag, or intake assessment, by  
10 a nurse on June 4th of 2018.

11 And this is at Page 46 for counsel.

12 Let me ask you just to read this text  
13 that I have highlighted here, and let me know when  
14 you're finished.

15 A. Do you want me to read it out loud  
16 or --

17 Q. No, I'm sorry. Please read it to  
18 yourself --

19 A. Okay.

20 Q. -- and let me know when you're done,  
21 and I'll ask you some more questions.

22 A. Okay.

23 Q. The information that's communicated  
24 here about Mr. Freitag's previous suicide attempts,  
25 multiple suicide attempts, inpatient

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1 hospitalization at Friends Hospital, scars on his  
2 right front forearm, do you recall learning that  
3 information when you had your first encounter with  
4 Mr. Freitag in June of 2018?

5 A. I would have read that after I met with  
6 him.

7 Q. Okay. So is it safe to say then that  
8 at some point you certainly became aware of these  
9 factors in Mr. Freitag's background; is that right?

10 A. Yes.

11 Q. And I assume, based on everything we've  
12 been discussing, that these factors alone are  
13 enough to have you concerned that he is at risk of  
14 suicide; is that correct?

15 A. Yes.

16 Q. All right. So is it fair to say that  
17 once -- as soon as Mr. Freitag comes in with that  
18 history, he's already someone who you're going to  
19 be watching out for in terms of suicide risk; is  
20 that right?

21 MR. NINOSKY: Object to the form. You  
22 can answer.

23 THE WITNESS: That would have shown to  
24 us that at that moment he was more at risk than  
25 someone else without that risk, so yeah.

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1 prisoner when they come into the facility; is that  
2 correct?

3 A. No.

4 MR. NINOSKY: Object to the form.

5 BY MR. FEINBERG:

6 Q. Yeah, okay. Tell me, what is this then  
7 that --

8 A. The mental health intake form would be  
9 a form that we would complete if somebody was  
10 tasked to us as had a mental health history.

11 Q. Got it, okay. So scrolling down here  
12 in the middle of the page on 76, next to suicidal  
13 ideation, it sounds like this is something you  
14 discussed with him, is that right, because you've  
15 made a note here about his report of thoughts of  
16 suicide in the past year.

17 A. Yes.

18 Q. And he said three times, with the most  
19 recent being September 27 -- 2017; is that right?

20 A. Yes.

21 Q. Do you remember learning at the time on  
22 September 2017 was actually the time that he slit  
23 his -- or cut himself on the arm and drove his  
24 truck through his ex-wife's house?

25 A. Yes.

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1           Q.       Did he report that to you in this  
2   encounter?

3           A.       No.

4           Q.       How did you learn it then?

5           A.       I don't think he ever actually reported  
6   that to me and told me about it.

7           Q.       What do you remember what sort -- where  
8   you got the information?

9           A.       It had to have been somebody talking  
10   about it in here, but I had known about it. But it  
11   was never him that told me that.

12          Q.       All right. You noted here, he shared  
13   that he sometimes -- bottom of Page 77.

14                   He shared that he sometimes starts to  
15   have thoughts of harming himself when he becomes  
16   depressed; is that right?

17          A.       Um-hmm, yes.

18          Q.       And that's something that he  
19   acknowledged to you; is that correct?

20          A.       Correct.

21          Q.       And I take it based on --

22                   MR. NINOSKY: That's a different form  
23   now, Jon.

24                   MR. FEINBERG: Yeah, you're right.

25   You're right. This is Ms. James from later. So

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1     you've asked him, specific questions?

2             A.       Not necessarily. It's based on  
3     information that I gained through the intake  
4     process.

5             Q.       All right. So the responsibility to  
6     family or others, how did you make that  
7     determination that that was a protective factor for  
8     him?

9             A.       He mentioned family and that he has a  
10    close relationship with them and that they're  
11    supportive of him.

12            Q.       Finally, in terms of his current level  
13    of self-harm or risk, you determined moderate.

14                    How is that determination -- how do you  
15    make that determination?

16            A.       Those categories correspond directly  
17    with our levels.

18            Q.       Okay.

19            A.       Severe would be under constant watch,  
20    high would be Level 1, moderate is Level 2, and low  
21    would be someone that's on a psych observation or  
22    no level.

23            Q.       Got it. And so I guess my question  
24    then is, when you check off moderate here on this  
25    form --



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1           A.       Um-hmm.

2           Q.       -- are you making a diagnostic  
3     determination at that point that he is a moderate  
4     risk?

5                   MR. NINOSKY: Object to the form. You  
6     can answer.

7                   THE WITNESS: Yes.

8     BY MR. FEINBERG:

9           Q.       Well, okay. Take me through the  
10    process, okay?

11                   So, you know, with Mr. Freitag you've  
12    described you saw him in the medical unit, you came  
13    back and went to your computer and you filled out  
14    this form; is that correct?

15          A.       Yes.

16          Q.       When you got to -- I assume this screen  
17    comes up, estimated current level of self-harm,  
18    suicidal risk, right?

19          A.       Um-hmm.

20          Q.       You clicked the button -- is that a  
21    yes?

22          A.       Yes.

23          Q.       And you clicked the button for  
24    moderate; is that correct?

25          A.       Correct.

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1           Q.       Why did you click the button for  
2 moderate?

3           A.       He was on the Level 2. I wasn't moving  
4 him off of a Level 2, and he had some risk factors  
5 that I had checked off. But he wasn't currently  
6 expressing thoughts of harming himself.

7           Q.       Okay. Is it fair to say then that you  
8 made a diagnostic determination that he was, in  
9 fact, a moderate risk at that point?

10          A.       Yes.

11                   MR. NINOSKY: Object to the form, you  
12 can answer.

13 BY MR. FEINBERG:

14          Q.       All right. So, for instance, just if  
15 he had been on a Level 2 at that point, but then at  
16 the time of your evaluation you were convinced that  
17 he's fine, there's no risk at this point, we can  
18 step him down, you would have indicated low risk;  
19 is that right?

20          A.       Yes.

21          Q.       And at that point he would have been  
22 stepped down to a Level 3; is that correct?

23          A.       There's a bunch of other steps, but  
24 yes.

25          Q.       Okay. Well, all right. So, yeah, tell

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1 me, what stepdowns?

2 A. So I would need to -- I would review  
3 that with Dr. Cassidy. I would update our medical  
4 record to show that, and then I have to go into the  
5 jail system and change the alert, and then usually  
6 call the block officer as well to make him aware  
7 that we made the change.

8 Q. Were there -- it sounds like when you  
9 made the determination -- I'm sorry. Were you --

10 A. Well, we also send out an e-mail --

11 Q. Okay.

12 A. -- of level changes to -- like, I think  
13 there's 60 or 70 people on that e-mail.

14 Q. Sixty or 70, is that what you said?

15 A. I don't know if it's that many, but  
16 it's a lot, yes. It's like a copy and paste  
17 situation on that chunk of e-mails.

18 Q. When you made the determination that he  
19 was a moderate risk, it sounds like there were two  
20 things in your head.

21 One was that he was already Level 2.  
22 Two is that he had risk factors which he outlined,  
23 including first arrest and then a significant legal  
24 change; is that correct?

25 A. Yeah, and it would have also been based

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1 before, the -- when Ms. James took him off Level 3  
2 status.

3 Does that sound right to you?

4 A. Yeah, that is what it looks like she  
5 did here.

6 Q. Okay. Let me just ask you to read the  
7 subjective portion of the bit I've highlighted, and  
8 we're here at Page 114. Read that to yourself, and  
9 let me know when you're finished.

10 A. Okay.

11 Q. So there's reference here to the fact  
12 that Mr. Freitag was anxious whenever he was  
13 thinking about his case and possibly losing his job  
14 of 25 years.

15 Seeing that, does that refresh your  
16 recollection of hearing about Mr. Freitag's  
17 concerns early on in his incarceration?

18 A. Yeah.

19 Q. Okay. And, in fact, when you saw  
20 Mr. Freitag for the next time after your previous  
21 encounter on June 6th, can I assume that you would  
22 have gone back and looked at that note from  
23 Ms. James?

24 A. Yes.

25 Q. Your next note is just one page up

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1 conduct.

2 A. Okay.

3 Q. Do you remember him talking  
4 specifically about that?

5 A. No.

6 Q. Did you tell him anything about that?  
7 Did you give him any advice or any  
8 information about what happens when you go off of  
9 SSRI medications?

10 A. No.

11 Q. The phrase here, he discussed wanting  
12 mental health to follow up after he goes to court  
13 in August, what do you remember about that request  
14 or why did he say that?

15 What was his specific reason, if you  
16 know?

17 A. Just because he figured he would need  
18 somebody to talk to afterwards. I think at some  
19 point he even said, am I going to get to say  
20 good-bye before I go home.

21 So I think it was kind of a dual --  
22 depending on which way court went would be why he  
23 wanted to follow up with us.

24 Q. Okay. And he was saying that as early  
25 as June 15th?

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1 Q. Do you remember -- is that a yes?

2 A. Yes. Sorry.

3 Q. Do you remember thinking at that time  
4 that the sentencing was part of -- was an important  
5 part of your evaluation as to what his risk level  
6 was?

7 MR. NINOSKY: Object to the form. You  
8 can answer.

9 THE WITNESS: Yes, sentencing would be  
10 one of those concerning events.

11 BY MR. FEINBERG:

12 Q. Okay. And, in fact, just to -- I'll  
13 acknowledge I'm challenging your suggestion that he  
14 just wanted to say good-bye, because I want to show  
15 you what happened -- what appears to have happened  
16 in terms of scheduling.

17 I'm showing you Page 141, which is the  
18 task list; is that correct?

19 A. Okay, yes.

20 Q. And it looks like here there's an  
21 appointment created for August 27th of 2018.

22 Do you see that?

23 A. Um-hmm, yes.

24 Q. And it looks like you created it on  
25 June the 15th; is that correct?

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1 A. Yes.

2 Q. And that's -- we were just looking at  
3 the note from June 15th; is that right?

4 A. Yes.

5 Q. And putting things together, it looks  
6 like after you had this discussion with Mr. Freitag  
7 on June 15th, he said he wanted to see someone  
8 after court, so you went in and made sure that  
9 appointment was scheduled; is that correct?

10 A. Yes.

11 Q. The appointment was for August 27th,  
12 which was the Monday after his sentencing; is that  
13 right?

14 A. Yes.

15 Q. If he was gonna go home after his  
16 sentencing, he likely would have walked out the  
17 door of the courthouse; is that right?

18 A. No.

19 Q. He would -- would he have come back to  
20 the facility and still been there on Monday?

21 A. Maybe. He would have definitely had to  
22 come back to the facility.

23 Q. Got it, okay. Well, and -- that sounds  
24 like that's a correctional issue in terms of how  
25 they process people for release; is that right?

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1           A.       No.

2           Q.       All right. The first thing you noted  
3   on his concerns is that he had bad anxiety and that  
4   it was increasing as his court date got closer. He  
5   was worried about what was going to happen, how it  
6   was going to affect his life.

7                   Do you remember anything specific he  
8   said about those concerns?

9           A.       No.

10          Q.       Do you remember what he -- before, when  
11   you told me about those -- the concerns he raised,  
12   it was, you know, about getting his life together.

13                   Is that consistent with your  
14   recollection from this particular incident?

15          A.       I don't actually recall.

16          Q.       Would you agree that based on this --  
17   on his explanation, this sentencing proceeding  
18   appeared to be a significant source of anxiety?

19                   MR. NINOSKY: Object to the form,  
20   significant, but you can answer his question.

21                   THE WITNESS: Based on what I wrote, he  
22   was anxious about court, so yes.

23   BY MR. FEINBERG:

24          Q.       You made the determination that he  
25   appeared to be in the low risk for self-harm.



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1                   Do you know -- does anything stand out  
2   about this one?

3                   Do you remember any conversation?

4           A.       I just remember him being hopeful and  
5   sort of anxious, but almost like an excited anxious  
6   type of energy, where he just kind of wanted to go  
7   and find out what was gonna happen and just, you  
8   know, get back to his life.

9           Q.       Okay. He noted that his lawyer was  
10   confident he was gonna get out.

11                   Did you ever -- did you have any  
12   understanding either way as to what his range of  
13   possibilities was at sentencing?

14           A.       No. From everything that I had been  
15   told or had been relayed to me, it was as set in  
16   stone as it can be when you go to court that he was  
17   going to have probation and be released.

18           Q.       And who provided you that information  
19   besides Mr. Freitag?

20           A.       The case managers would have relayed  
21   that. I'm not sure if it came directly through  
22   them or from Dr. Cassidy to me first, but that's  
23   how it was relayed.

24           Q.       Okay. Do you remember having any  
25   conversation with Mr. Freitag in this encounter or

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1 in that encounter, in any other encounter, for that  
2 matter, where you said keep an open mind, you never  
3 know what's gonna happen?

4 A. No.

5 Q. Okay. Obviously, you know that did not  
6 come to pass for Mr. Freitag.

7 He received a stiff jail sentence of  
8 six to 12 years; is that right?

9 You blanked out. Can you answer that?

10 A. Yes.

11 Q. Okay. And is it accurate to say that  
12 was beyond -- well beyond Mr. Freitag's  
13 expectations as he had communicated them to you?

14 MR. NINOSKY: Object to the form. You  
15 can answer.

16 THE WITNESS: Yes.

17 BY MR. FEINBERG:

18 Q. Based on what you knew about his mental  
19 health status at that time, do you believe that he  
20 was prepared to accept that sentence or prepared to  
21 deal with that sentence once it was imposed?

22 MR. NINOSKY: Object to the form,  
23 speculation, but you can answer if you can.

24 THE WITNESS: I don't know.

25 BY MR. FEINBERG:

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1           Q.       Okay. Is that something -- based on  
2   your interactions with him, and it sounds like you  
3   developed a nice working relationship with him, if  
4   you found out that he got a sentence of six to 12  
5   years, would you have said to yourself at that  
6   time, oh, boy, that's gonna be really hard for him  
7   or a significant development for him, we should  
8   speak with him?

9           MR. NINOSKY: Object to the form,  
10   speculation. You can answer if you can.

11          THE WITNESS: Anytime someone were to  
12   get a sentence that they weren't expecting, we  
13   would follow up with them.

14   BY MR. FEINBERG:

15          Q.       Okay. So that's something -- and --  
16   but not specific to Mr. Freitag, but that's just a  
17   common factor, right? You know that that's going  
18   to cause the need for mental health intervention if  
19   you've already been working with that person?

20          MR. NINOSKY: Object to the form. You  
21   can answer.

22          THE WITNESS: Not necessarily. I mean,  
23   people handle all sorts of news that I think would  
24   be tragic that they don't think.

25   BY MR. FEINBERG:

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1 Q. Okay.

2 A. It's going to be relative to him. I  
3 wouldn't have known one way or the other whether he  
4 was going to have difficulty handling that  
5 sentence.

6 Q. But based on, number one, his anxiety  
7 about sentencing and, number two, his expectation  
8 that he was getting out sounds like that's what  
9 would have driven your expectation that -- that he  
10 would need mental health intervention; is that  
11 correct?

12 MR. NINOSKY: Object to the form.

13 THE WITNESS: I would -- yeah, I mean,  
14 I would say that it would have been probably  
15 upsetting that it hadn't gone the way he would have  
16 wanted it to go, and we should check in.

17 BY MR. FEINBERG:

18 Q. Right, okay. And adding to his  
19 expectations and his anxiety, there obviously also  
20 was his mental health diagnosis and his previous  
21 suicide attempts; is that right?

22 A. Um-hmm.

23 Q. Is that a yes?

24 A. Yes. Sorry.

25 Q. So when you combine those four factors,

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1 one, mental health diagnoses; two, previous suicide  
2 attempts; three, his anxiety about sentencing; and,  
3 four, his expectations about sentencing, that is,  
4 getting out, all of that combined, once the result  
5 was imposed, would give you reason to want to have  
6 a mental health encounter with Mr. Freitag; is that  
7 correct?

8 MR. NINOSKY: Object to the form, but  
9 you can answer.

10 THE WITNESS: Well, anxiety isn't  
11 really a risk factor for suicide.

12 All of the other ones, yes, I would say  
13 would have been changing -- things that have  
14 changed or were important for us to follow up on.

15 BY MR. FEINBERG:

16 Q. Okay. So can we agree, sitting here,  
17 that the three factors then, one -- let me do the  
18 list again to make sure we're talking about the  
19 same thing.

20 One, his mental health diagnoses; two,  
21 his history of suicide attempts; and, three, a  
22 sentence that was wildly outside of his  
23 expectations, those factors were changes which, in  
24 your judgment, constitute suicide risk factors; is  
25 that correct?

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1 MR. NINOSKY: Object to the form.

2 THE WITNESS: Yeah, those are listed on  
3 the form.

4 BY MR. FEINBERG:

5 Q. All right. And, in fact, the last  
6 factor would be sentencing -- the imposition of a  
7 sentence far outside his expectations is something  
8 consistent with the procedures -- or the PrimeCare  
9 policies identifying significant legal  
10 developments; is that correct?

11 A. Yes.

12 Q. And if you conducted a suicide risk  
13 assessment, we've already reviewed the box is  
14 checked for new legal development; is that correct?

15 A. Yeah.

16 Q. So if a -- and I understand you didn't  
17 do this, but if you had conducted a formal suicide  
18 risk assessment with Mr. Freitag after his  
19 sentencing on September -- or August 24th of 2018,  
20 you would have expected to have checked off those  
21 factors; is that correct?

22 A. Yes.

23 Q. And I take it that, based on everything  
24 you're saying, you would have expected to find an  
25 increased risk of suicide, over and above what you

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1 watch procedure was required, in this case Level 3  
2 watch, that they would have -- that correctional  
3 staff would have ensured compliance with that watch  
4 status; is that correct?

5 A. Yes.

6 Q. All right. In other words, if Level 3  
7 watch is imposed by correctional staff, which  
8 requires two correctional officer visits per hour  
9 and four observations by inmate monitors, you would  
10 expect that all of those would have taken place; is  
11 that right?

12 A. Absolutely.

13 Q. All right. And if those aren't -- if  
14 those are not taking place, then mental health  
15 can't be alerted to what any urgent issue might be;  
16 is that correct?

17 MR. NINOSKY: Object to the form.

18 THE WITNESS: Yes.

19 MR. NINOSKY: You can answer the  
20 question. You can answer.

21 THE WITNESS: Oh, I did. Sorry, yes.

22 MR. NINOSKY: Can you say it again,  
23 please, because we didn't hear it, and I want to  
24 make sure the court reporter got an answer since we  
25 did talk over one another.

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1 THE WITNESS: Yes. That is accurate.

2 BY MR. FEINBERG:

3 Q. At any point after Mr. Freitag's  
4 suicide, Ms. Mahoney, did you go back and look at  
5 your notes about your encounters with him?

6 A. Yes.

7 Q. When did you do that?

8 A. The only time I actually remember is  
9 most recently, late last week, when I knew I had  
10 this coming, and then when I -- when the lawsuit  
11 was made public.

12 Q. Okay. So you looked at the notes to  
13 see what happened in connection with the lawsuit.  
14 I understand that.

15 What I'm asking is, you got the call  
16 the Saturday, the 25th of August, in 2018, that  
17 Mr. Freitag had killed himself, right?

18 Is that a yes?

19 A. Yes. Sorry.

20 Q. Okay. When you got back to work --  
21 well, actually, when you went into the building on  
22 Saturday afternoon and then you went -- I assume  
23 you went back to work on Monday, the 27th, at any  
24 point then did you go back and look at your notes?

25 A. I -- yes, I'm sure I did. I don't